

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

<b>LINDA FAIRSTEIN,</b>  <b>Plaintiff,</b>  <b>vs.</b>  <b>NETFLIX, INC., AVA DUVERNAY, and</b> <b>ATTICA LOCKE,</b>  <b>Defendants.</b>	<b>Case No. 20-cv-8042 (PKC)</b>
---	----------------------------------

**PLAINTIFF’S NOTICE OF AMENDED MOTION TO FILE AND MAINTAIN  
CONFIDENTIAL INFORMATION UNDER SEAL**

Notice is hereby given that Plaintiff Linda Fairstein (“Plaintiff”) respectfully moves, pursuant to Section 7.4 of the Stipulated Protective Order entered in this action (ECF No. 105), the Court’s Order on Sealing, dated September 21, 2023 (ECF No. 217) (“September 2023 Sealing Order”) and Rule 5 of the Honorable P. Kevin Castel’s Individual Practices, for an order sealing documents: a) that contain Defendants’ Confidential Information and are subject to sealing pursuant to the September 2023 Sealing Order; and b) that contain the Confidential Information of non-party Penguin Random House LLC. This Motion is based on the Notice of Motion, and the Declaration of Kara L. Gorycki, dated December 15, 2023 and the exhibits annexed thereto.

This Motion amends and supersedes the sealing motion previously filed at ECF Nos. 238-239. Plaintiff respectfully requests an order directing the Clerk of the Court to maintain ECF Nos. 238, 239 and 239-1 through 239-5 under seal or, alternatively, to remove these entries from the docket because they contain Confidential Information that is the subject of this Motion and was not the subject of Plaintiff’s original sealing request.

Simultaneous with the filing of this Motion, Plaintiff is re-filing the Motion in Limine to Preclude the Testimony and Exclude the Expert Report of Defendants' Rebuttal Expert Anthony Freinberg (ECF Nos. 240-244), filed on December 15, 2023, to reflect the parties' additional, agreed upon redactions to Exhibit C to the Gorycki Declaration, (ECF No. 241-3, 244-2), pursuant to the September 2023 Order, and redactions to Exhibit B to the Gorycki Declaration, (ECF No. 241-2), which contains non-party Penguin Random House LLC's Confidential Information. Exhibit A to the Gorycki Declaration, (ECF Nos. 241-1, 244-1), is also the subject of the amended sealing motion but contains no updates. Exhibits D-G to the Gorycki Declaration, (ECF Nos. 241-4 through 241-7), are being re-filed so that they are publicly accessible. Plaintiff's notice of motion (ECF No. 240) and memorandum of law (ECF No. 242) are also being re-filed so that they are publicly accessible. Plaintiff respectfully requests an order directing that ECF Nos. 240, 241, 241-1 through 241-7, 242, 243, 244, and 244-1 through 244-2, be maintained under seal or, alternatively, be removed from the docket to avoid the inadvertent disclosure of Confidential Information that was not the subject of the prior sealing motion.

Simultaneous with the filing of this Motion, Plaintiff is re-filing the Motion in Limine to Exclude Certain Testimony and the Expert Report of David P. Kaplan (ECF Nos. 251-253), filed on December 15, 2023, to seal additional, Confidential Information of non-party Penguin Random House LLC. Plaintiff is re-filing: Exhibit 1 to the Gorycki Declaration, (ECF No. 252-1), under seal; Exhibit 3 to the Gorycki Declaration, (ECF No. 252-3), with additional redactions; and Exhibit 5 to the Gorycki Declaration, (ECF No. 252-5), with an additional redaction. Plaintiff is also re-filing Exhibits 14 and 15 to the Gorycki Declaration—which were part of the original sealing motion—under seal (ECF Nos. 252-16, 252-17). Plaintiff is further re-filing the memorandum of law (ECF No. 253) with redactions. Exhibits 2, 4, and 6-13 to the Gorycki

Declaration, (ECF Nos. 252-2, 252-4, 252-6 through 252-15), are being re-filed so that they are accessible to the public. The notice of motion (ECF No. 251) is being re-filed so that it is accessible to the public. Plaintiff respectfully requests an order directing that ECF Nos. 251, 252, 252-1 through 252-17 and 253 be maintained under seal or, alternatively, be removed from the docket to avoid the inadvertent disclosure of Confidential Information that was not the subject of the prior sealing motion.

Dated: New York, New York  
January 10, 2024

Respectfully Submitted,

By: /s/ Kara L. Gorycki  
Kara L. Gorycki  
Andrew T. Miltenberg  
NESENOFF & MILTENBERG, LLP  
363 Seventh Avenue, Fifth Floor  
New York, New York 10001  
(212) 736-4500  
[kgorycki@nmlplaw.com](mailto:kgorycki@nmlplaw.com)  
[amiltenberg@nmlplaw.com](mailto:amiltenberg@nmlplaw.com)  
*Attorneys for Plaintiff Linda Fairstein*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 10, 2024, a true and correct copy of the foregoing was served by CM/ECF on all counsel of record.

/s/ Kara L. Gorycki